

**Minutes of the Special And Regular Meeting of Tuesday, September 27, 2005**  
**City Council Chambers, One Twin Pines Lane**

**SPECIAL MEETING**

**CLOSED SESSIONS - 7:00 P.M.**

- A. Conference with Real Property Negotiator Crist, Pursuant to Government Code Section 54956.8, for Property Located at 550 Island Parkway APN 040-360-390.
- B. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation One Case: Eckert v. City of Belmont.

Attended by Councilmembers Feierbach, Bauer, Mathewson, Metropulos, Warden, City Attorney Zafferano, Interim City Manager Jack Crist, Finance Director Fil (Item B only), Public Works Director Davis (Item A). Councilmember Mathewson was recused on Item B since he lives within 500 feet of subject property (Eckert). City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time, being 7:15 P.M.

**Terri Cook**  
**BelmontCity Clerk**

Meeting not audio recorded or videotaped.

**REGULAR MEETING**

**CALL TO ORDER 7:30 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Mathewson, Bauer, Metropulos, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Crist, City Attorney Zafferano, Interim Community Development Director deMelo, Human Resources Director Dolan, Public Works Director Davis, Code Enforcement Officer Buckman, Police Chief Mattei, City Clerk Cook.

**PLEDGE OF ALLEGIANCE**

Led by City Clerk Cook.

**REPORT FROM CLOSED SESSION**

Mayor Warden stated that direction was given but no action taken during the Closed Sessions held earlier in the evening.

**SPECIAL PRESENTATIONS**

**Proclamation Declaring October 8, 2005 " Walking for Ben Day"**

Mayor Warden read the Proclamation.

Councilmember Bauer stated that he would accept the Proclamation on behalf of the family, who was not able to attend this evening, and commented that he hoped they are able to reach their financial fundraising goal.

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Mary Lou Orr**, on behalf of Belmont Kiwanis Club and Charles Armstrong School, presented a check from both the Kiwanis Club and Charles Armstrong School to the Friends of the Belmont Library, each in the amount of \$1,000.

**Patty Vilcek/Christina Pels**, Wells Fargo Bank, presented a check to the Friends of the Belmont Library from the Belmont Branch of the bank in the amount of \$25,000.

**Pam Clarke**, President, Friends of the Belmont Library, thanked the Kiwanis Club, Charles Armstrong School, and Wells Fargo Bank for their generous contributions. She asked that others in the community consider making a contribution.

**Rob Simmons**, California Medical Marijuana Patient's Association, stated that his organization has received support from the County Board of Supervisors. He noted that the Belmont Permit Center staff advised him that they would issue a permit for operations if approved by the Board of Supervisors. His patients are being prosecuted. He has medical bills totaling over \$3 million. He is trying to get a dispensary license. He was evicted from his apartment.

Mayor Warden stated that although this item is not on the agenda, he requested that the City Attorney comment regarding this issue.

City Attorney Zafferano stated that Proposition 215 grants limited immunity for the cultivation of a limited amount of marijuana for personal use. It does not grant the authority to cultivate for the benefit of others.

## **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Mathewson stated that prior to this evening's meeting he attended a ribbon cutting for the new apartment building for mental health patients, located on F Street. He noted there were 100-150 people in attendance. Supervisors Hill and Gordon each complimented the City of Belmont for its financial assistance in the building of this facility.

Councilmember Metropulos stated that at a recent meeting of the Office of Emergency Services earthquake preparedness was discussed. He noted the County would be hosting a symposium on November 12 regarding this issue. He also stated that a ribbon cutting was held for the recent completion of the in-pavement flashers at Central Elementary School.

## **AGENDA AMENDMENTS**

Mayor Warden stated that at the request of a member of the public, Items 4-I (Resolution Approving an Amendment to the Compensation and Benefits Program for Unrepresented Management Employees) and 4-J (Resolution Approving a Salary and Benefit Increase for City Clerk) would be removed from the Consent Agenda for separate consideration.

He thanked staff for providing the backup material for item 4-G (Resolution Approving a Professional Services Agreement with RMC Water and Environment for Sanitary Sewer Evaluation and Master Planning for an Amount not to Exceed \$355,140).

Councilmember Mathewson requested removal of item 4-C (Belmont Library/Belameda Park Project - September Monthly Update) and 4-F (Resolution Granting a Hauling Permit to the University of Notre Dame de Namur for Reconstruction of a Soccer Field) for separate consideration.

Councilmember Bauer requested the removal of Item 4-B (Written Communications) for separate consideration.

Councilmember Feierbach requested the removal of item 4-D (Police Department/City Hall Project - September Monthly Update) for separate consideration.

### **CONSENT CALENDAR**

**Approval of** Minutes of Special Meeting of August 30, 2005

**Approval of** Resolution 9701 Approving the Filing of the Bicycle Transportation Account (BTA) Grant Application for City Contract Number 433 - U.S. Highway 101 Bicycle/Pedestrian Bridge Project in the Amount of \$1,250,000

**Approval of** Resolution 9702 Approving a Professional Services Agreement with RMC Water and Environment for Sanitary Sewer Evaluation and Master Planning for an Amount not to Exceed \$355,140

**Approval of** Ordinance 1009 Amending Municipal Code Section 17-4, Planning Commission Call-up Authority (2nd reading and adoption)

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Metropulos, the Consent Calendar was unanimously approved, as amended, by a show of hands.

### **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

**Written Communication: Received 9/15/2005 PG&E Notice of Filing of Application for Recovery of Catastrophic Event Costs (CEMA)**

Councilmember Bauer stated he wanted to bring the public's attention to the small rate increase being requested by PG&E. He noted all of these increases have a cumulative effect.

**ACTION:** On a motion by Councilmember Bauer, seconded by Councilmember Mathewson, and unanimously approved by a show of hands to accept Written Communications.

### **Belmont Library/Belameda Park Project - September Monthly Update**

Councilmember Mathewson expressed concerns about using contingency monies for adding this water feature at the new library. He recommended that the Planning Commission review the design.

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Metropulos, the Belmont Library/Belameda Park September monthly report was unanimously accepted by a show of hands.

Council concurred to refer the proposed water feature to the Planning Commission for review.

**Police Department/City Hall Project - September Monthly Update**

Councilmember Feierbach requested clarification regarding the placement of current Councilmember photos in the first floor lobby, and stated she does not want to see holes drilled into the new paneling. Interim City Manager Crist responded that the proposed location of the photos was outlined in the staff report.

City Hall Project Manager Mittelstadt noted that the manufacturer of the paneling has a system available for hanging items on the paneling which does not involve drilling holes. He noted that other locations are available for the photos, and they could be moved, if desired.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Mathewson, the Police Department/City Hall Project September Monthly Update was unanimously accepted by a show of hands.

Councilmember Bauer recommended placing a kiosk or plasma screen TV with scrolling photos and other information. Mayor Warden stated he would support that concept.

In response to Councilmember Mathewson, Project Manager Mittelstadt stated that a 2' x 2' bronze plaque would be installed on the exterior of the building.

**Resolution Granting a Hauling Permit to the University of Notre Dame de Namur for Reconstruction of a Soccer Field**

Councilmember Mathewson recommended consideration of requiring a letter of credit rather than a surety bond. Councilmember Feierbach noted that this could delay the project.

Interim Community Development Director deMelo stated that the Planning Commission approved the project on September 20, and the applicant would like to begin work as soon as possible.

Councilmember Mathewson commented that he does not want to hold up the project, but would like staff to consider the letter of credit requirement for future projects.

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Bauer, Resolution 9703 Granting a Hauling Permit to the University of Notre Dame de Namur for Reconstruction of a Soccer Field was unanimously approved by a show of hands.

**Resolution Approving an Amendment to the Compensation and Benefits Program for Unrepresented Management Employees, and Resolution Approving a Salary and Benefit Increase for City Clerk**

Kathleen Beebe, AFSCME Representative, stated that the cost for salary improvements for the unrepresented management employees is \$75,000 plus the potential for an additional 20 percent

merit increase. She noted that Belmont's work force received a one percent increase. She would like to know how the bonus is earned, and requested clarification as to why the City Clerk is receiving a CPI-based (Consumer Price Index) increase when the CPI formula was rejected for AFSCME. She recommended that the bargaining units be a part of the management evaluation system.

Interim City Manager Crist responded that the Council has met in Closed Session a number of times on this issue. There is a desire by the Council to uncouple unrepresented management salary raises from the bargaining units, and to design a new performance-based system. Managers will be evaluated by the City Manager using rigorous performance measures. None of the managers has received merit pay, and that there are currently only four department heads to which this system would be applicable at this time. He clarified that the total dollar amount is not \$75,000. He further responded that employees will be able to provide anonymous input regarding management performance, and that not all managers will receive a 20 percent merit raise. The evaluation criteria has yet to be developed, and all pay improvements are retroactive to July, 2005.

Councilmember Mathewson noted that the City Clerk is receiving a CPI-based raise only, and that the step system was eliminated. Interim City Manager Crist added that under the step system, the City Clerk would have received a five percent step raise at her employment anniversary.

Mayor Warden noted that department heads are not receiving the same equity adjustments that the bargaining units have received. Bargaining unit employees received retroactive raises. He noted that Council has been working on this issue for months, and it needs to show good faith to the management, since everyone else has already received raises.

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Bauer, Resolution 9704 Approving an Amendment to the Compensation and Benefits Program for Unrepresented Management Employees, **and** Resolution 9705 Approving a Salary and Benefit Increase for City Clerk, were unanimously approved by a show of hands.

## **OLD BUSINESS**

### **Discussion and Direction for the Belmont City Poem**

Administrative Assistant Stallings stated that there three are artwork options for consideration for the Belmont Poem, and staff's recommendation is for Council to approve Option C.

**ACTION:** On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, "Option C" (20"x20" size, some color and illumination treatment, small watercolor vignette consisting of a Belmont hill and tree, acrylic framing), was unanimously approved by a show of hands.

### **Further Discussion and Direction on Ordinance Amendments to Belmont Municipal Code Chapter 14, Motor Vehicles and Traffic, Article 1 (On-street Parking of Recreational Vehicles, Boats, Trailers)**

City Attorney Zafferano stated that further direction and clarification was needed from the City Council prior to this item returning for the continued Public Hearing and first reading of the ordinance amendments, especially regarding truck height limits.

Councilmember Bauer commented that the differences between tonnages on most vehicles are in the weight of the undercarriage, not the height. He stated that consideration should be given to contractors and other residents who have larger vehicles, and recommended the height limit be set at seven feet.

Councilmember Mathewson noted that three-quarter ton vehicles are large.

In response Councilmember Feierbach, Public Works Director Davis clarified parking on dirt lots is not permitted, and enforcement is complaint-based. He added that if the parking issue is in the right-of-way, the Public Works Department takes the lead, and if on private property, it is a code enforcement issue.

Discussion ensued.

City Attorney Zafferano stated that the height limit could be set at 6' 6", or increased to 7 feet if the vehicle has a see-through rack. He clarified that the lower limit would be set for intersections for safety reasons.

Mayor Warden stated that the goal is to prohibit large vehicles from parking on the street and that larger vehicles should be parked off the street.

Councilmember Mathewson recommended retaining the tonnage limit at three-quarters. Mayor Warden concurred. Councilmember Bauer responded that the frame size is the same whether the vehicle is three-quarter or one-ton. Councilmember Metropulos stated that the line needs to be drawn somewhere, and that large vehicles should be parked in a lot.

### **Discussion and Direction on Establishing an Administrative Hearing Process for Code Enforcement**

Code Enforcement Officer Buckman reviewed the previous Council discussion and direction regarding the establishment of an administrative hearing process for code enforcement. He noted that there are significant legal issues to address.

Councilmember Feierbach expressed her support for the use of volunteers for this process.

In response to Council questions, City Attorney Zafferano clarified that the use of attorneys to adjudicate may not comply with the law. He noted that although cities could share attorneys in order to staff a hearing body, this could represent a conflict of interest. The designation of an individual Planning Commissioner, or the entire Planning Commission, as a hearing body could also present significant legal problems. He noted that other cities use management employees from neighboring cities, which works well.

Councilmember Mathewson stated that the Daly City Council is satisfied with its administrative process.

In response to Council questions, Finance Director Fil clarified that the collection of fines would be handled in the same way as a citation, such as a parking ticket. He does not recommend using a property lien, since this process should be a last resort.

Code Enforcement Officer Buckman stated that some cities use a lien process, which includes cost recovery plus a penalty, which is added to the tax roll. He noted that Daly City's fees are based on staff time. He explained the notification process.

City Attorney Zafferano stated that criteria needs to be established, with provisions for extenuating circumstances so that the process is not discretionary.

Code Enforcement Officer Buckman outlined the recommended process for the levying of fines. He noted that if an offender is assessed a fee, is it immediately payable. The hearing board, not staff, would administer fines over and above the assessed fee. Fees are outlined in the first letter sent to the offender, and the amount of time given to correct the violation would be based on the nature of the violation. Health and safety issues require immediate attention.

Councilmember Bauer recommended the use of registered mail. Mayor Warden supported the use of return receipt, but not certified mail.

Council concurred that the initial letter to the offender should outline potential fees and fines, that a fee be assessed if a second letter is necessary, and to have the hearing board levy fines.

City Attorney Zafferano stated that Daly City's board has the ability to modify fines, if desired. He noted that the hearing time could be long if the levying of the fine has to be addressed.

Mayor Warden noted that the goal is to correct the violation. He recommended establishing a range of options regarding fines.

Council concurred that the hearing body should be comprised either of senior management employees, or attorneys from other cities.

City Attorney Zafferano recommended that this process not include the ability to appeal these decisions to the City Council, even with an appeal fee. If an offender has a future project before the City Council, it could constitute a conflict. The courts should be used instead.

Council concurred that there be no appeal process to the City Council. It also concurred that the fee should be assessed if a second letter is required, and to use return receipt.

City Attorney Zafferano stated that staff would propose options for the Council to consider for the collection of fines.

### **Status of In-Pavement Flashers**

Public Works Director Davis stated that the final installation of in-pavement flashers had been completed near Central School, and that the lights installed in Phase I have been augmented. He noted the Police Department supports this program, and that the goal is for vehicles to be aware of pedestrians. He noted that this completes Phase I and II, and \$24,000 of the grant monies and \$14,000 of matching funds will not be expended.

Councilmember Metropulos recommended comparing the results of future decoy programs to those done prior to the installation of the flashers.

Councilmember Mathewson thanked staff for working with the manufacturer to resolve the street sweeper issue with the existing lights. Public Works Director Davis responded that the street sweeper operator is aware of what steps to take to avoid the problem in the future, and that he is confident this will not be an ongoing problem. He also stated that the life expectancy of the solar battery is 10-15 years. He noted a new casing is all that is needed should the lights need to be removed for resurfacing, and they are not expensive.

### **NEW BUSINESS**

#### **Discussion and Direction regarding Support of Assembly Bill 438 to Protect Families in Rental Communities from High-risk Sex Offenders**

Mayor Warden stated that some cities have endorsed this bill, which permits landlords to evict high-level sex offenders.

**ACTION:** On a motion by Councilmember Metropulos, seconded by Councilmember Feierbach, Resolution 9706 Supporting Assembly Bill 438 to Protect Families in Rental Communities from High-risk Sex Offenders was unanimously approved by a show of hands, said motion to include a letter of transmittal to the Assembly committee.

### **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

#### **Presentation on the Emerging Problem of Gang Activity in San Mateo County**

Police Chief Mattei stated that gang issues have been escalating in the County. He noted that members of the San Mateo County Gang Task Force were present to provide information.

**Tim Gatto**, San Mateo County Probation Services Manager, gave a Power Point presentation. He noted that national enforcement of gang problems include the use of RICO (organized crime) laws. He reviewed local gang issues and noted that the highest surge of gang problems occurred in 1997. He provided gang profile information, including number and types of gangs, ethnic composition, types of crimes, and types of graffiti used by different gangs. He outlined the reasons for the recent escalation in gang activity. He noted that the County Task Force desired to advise the public of the growing problem without alarming people. He commented that gangs are recruiting younger members. He also reviewed prison gang influence.

Councilmember Metropulos expressed concern that young people may be involved in gangs without their parents' knowledge, and recommended an education program for parents. Mr. Gatto responded that the problem with wearing gang clothing is often unintentional. He noted that videos are desensitizing young people to gang activity.



**Loren Buddress**, San Mateo County Chief Probation Officer, stated that gang problems are State-wide, not just County. He noted that this evening's presentation was the 51<sup>st</sup> such presentation in the County, and that all San Mateo County Police Chiefs are collaborating on this issue. Currently communities are reactive, not proactive, and he recommended that policymakers provide resources for gang options. Providing pro-social outlets for young people can be useful tools.

In response to Councilmember Bauer, Chief Buddress responded that local police should be notified if someone notices gang activity such as graffiti. Mr. Gatto added that a mentor program involving former gang members is also available.

Police Chief Mattei stated that this is a complicated issue, and education is key. He concurred that resistance programs aimed at young people are helpful, and noted that the Belmont Police Department has a strong School Resource Officer program in the Belmont schools.

**RECESS: 9:50 P.M.**

**RECONVENE: 9:55 P.M.**

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#### **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

##### **Consideration of a Resolution Regulating Temporary Signage at the Civic Center Complex (Warden).**

Mayor Warden stated that Planning Commissioner/Council Candidate Bill Dickenson forwarded this issue to him.

Council concurred to direct staff to consider this item for the development of a future policy regarding temporary signage in and around City Hall.

##### **Discussion and Direction to aid Hurricane Katrina Victims (Metropulos)**

Councilmember Metropulos stated that San Mateo County would not be receiving evacuees from Hurricane Katrina. He noted that students recently enrolled at Carlmont from the hurricane region are living in the area with relatives. He also noted that Central School students have collected \$1,800 to date for hurricane relief.

#### **COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES (continued)**

Councilmember Mathewson noted that he recently attended a retreat of the H.E.A.R.T. (Housing Endowment and Regional Trust), where he made a motion for consideration prior to Belmont discontinuing its membership in the organization. He stated he would continue to attend their meetings. He also noted that the Emergency Preparedness literature recently received contains a helpful checklist.

**ADJOURNMENT** at this time, being 10:00 P.M.

**Terri Cook**

**BelmontCity Clerk**

Meeting Tape Recorded and Videotaped  
Audio Recording 618